

REMARKS

Claims 1-26 were previously pending in this application. Claims 21-26 have been withdrawn. New claim 27 has been added. Thus, claims 1-27 are currently pending, with claims 1-20 and 27 being subject to examination.

Claim 7 has been amended by replacing the term "material" with the term "filter" as suggested by the Examiner. The term "preferably" has been deleted from claim 12 and the subject matter of claim 12 has been split into claim 12 and new claim 27. Claim 13 has been amended by deleting the phrase "that has the ability to self-assemble into amyloid-like fibrils or protein aggregates when released from said fusion protein." The terms "amyloidogenic" and the deleted phrase have an equivalent meaning. Thus, the deleted phrase can be removed from the claim without altering its meaning. For clarity, claim 13 has also been amended by inserting "the method" between "the fusion protein" and "further comprising."

Rejections under 35 U.S.C. §112

Claims 7 and 11-13 have been rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Office Action states that claim 7 lacks antecedent support in reciting "said material." Claim 7 has been amended by replacing "said material" with "said filter," thus obviating the rejection.

The Office Action states that claim 11 is vague and indefinite because it is unclear how detection is "effected by electron microscopy..." especially that in claim 10, "detection... is effected by an antibody... that binds to the fibrils or protein aggregates."

Claim 11 does not depend from claim 10. Claim 10 recites some of the ways in which step (b) may be effected and claim 11 recites some of the other ways in which step (b) can be effected. For an example of how detection can be effected by electron microscopy, see FIG. 4 and the last paragraph on page 4 of the application as filed.

Claim 12 was rejected under 35 U.S.C. §112 because the term "preferably" in claim 12 was viewed as a relative term that renders the claim indefinite. The term "preferably" has been deleted from the claim and claim 12 has been divided into two claims, amended claim 12 and new claim 27.

Claim 13 was viewed as confusing because it recited “separates the above mentioned components of the fusion protein further comprising the following steps... .” As suggested by the Examiner, the claim has been amended to state “the method further comprising the following steps... .”

Claim 13 was also found to be indefinite in that it recited the term “has the ability to self-assemble.” As is known to those of skill in the art, an amyloidogenic peptide or polypeptide is a peptide or polypeptide that has the ability to self-assemble into amyloid-like fibrils or protein aggregates when released from a fusion protein. The modifying phrase “that has the ability to self-assemble into amyloid-like fibrils or protein aggregates when released from said fusion protein” does not further define or limit the term “amyloidogenic peptide or polypeptide” and therefore has been deleted without altering the meaning of the claim.

Withdrawal of the rejections under 35 U.S.C. §112 is respectfully requested.

Rejections under 35 U.S.C. §102

Claims 1-12 and 17-20 have been rejected under 35 U.S.C. §102(e) as being anticipated by Kalchman et al., U.S. Patent No. 6,235,879 (Kalchman).

Kalchman claims priority to international application number PCT/US96/18370 that was filed on November 15, 1996. As the PCT application was filed prior to November 29, 2000, the 102(e) date for Kalchman is its U.S. filing date of May 27, 1998. See MPEP section 706.02(a). The present application claims priority to international application PCT/EP98/0481, filed July 31, 1998, which in turn claims priority to European Application No. EP97 11 3320.2, filed August 1, 1997. Therefore, the present application has a priority date of August 1, 1997, and Kalchman does not qualify as prior art. Withdrawal of the rejection is respectfully requested.

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CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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